

that this isn't the case. Ballard could, and does, teach away from the incorporation of expandable chambers into a seat while at the same time teaching the general idea of using expandable chambers to apply pressure to a body. Bullard teaches away by exclusively describing and showing its expandable chambers as being constricting cuffs and by stating that their intended use is to influence circulation by "constricting limbs" (Col. 2, lines 42 and 43). Because Bullard teaches constriction, Bullard would lead one skilled in the art away from the idea of incorporating expandable chambers into a seat.

In response to the Applicant's objection to the examiner's use of "shared advantage" reasoning to support the Examiner's obviousness determinations, the Advisory Action appears to have misconstrued Applicant's argument. The Advisory Action, in quoting *In re Dillon*, appears to have misunderstood Applicant's argument as being that a prima facie showing requires that the prior art disclose or suggest properties that an applicant has "newly discovered;" and in quoting *In re Beattie* appears to have misunderstood Applicant's argument as being that a prima facie showing requires references be combined "for reasons contemplated by the inventor." This is not the case. The applicant's argument is that the Examiner fell short of presenting a prima facie case because the Examiner only identified an advantage that the suggested combination has in common with the invention. And since this is always true (that a combination of references that reaches the invention will necessarily provide the same advantages), and can't possibly help distinguish obvious from non-obvious combinations, and because the identification of a "shared advantage" is not part of any judicially-determined process for establishing a prima facie case for obviousness, the Applicant asks that the Examiner either provide a properly-supported prima facie case for obviousness as set forth in the Applicant's legal citations set forth in the previous response, specifically show those citations to represent an improper or incomplete understanding of the law, or withdraw the rejection.

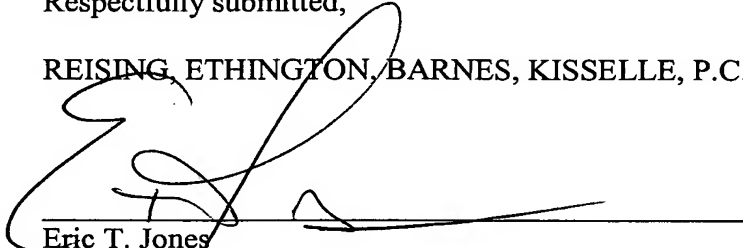
As the Applicant applies the test, i.e., the "problem to be solved" analysis established by the courts as set forth in Applicant's citations, the Bullard reference teaches the use of active evacuation to solve the problem of how to constrict limbs in a peristaltic-like sequence (See column 8, lines 38-46), i.e., how to simulate the wavelike muscular contractions of tubular structures by which contents are forced onward toward an opening. In contrast, the inventors on the present application incorporate active evacuation to solve a different problem: the problem of how to produce a direct and concentrated deflation necessary to produce a sufficiently concentrated massage effect on an occupant from beneath a seating surface. (See page 8, line 28 – page 9 line 2). The Applicant maintains that these problems are neither the same nor similar. Accordingly, Applicant maintains that it would NOT have been obvious to one of ordinary skill in the art who was familiar with Bullard's use of active evacuation to constrict limbs in a peristaltic-like sequence, to solve an entirely different problem, i.e., the use active evacuation to create a more concentrated massage effect on a seat occupant.

The applicant maintains that claims 1-17 and 19-26 are in allowable form. Please reconsider claims 1-17 and 19-26 in view of the foregoing amendments and remarks

I authorize the Assistant Commissioner to charge any deficiencies, or credit any overpayment associated with this communication to Deposit Account No. 50-0852. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.

A large, stylized handwritten signature in black ink, appearing to read 'Eric T. Jones', is written over a horizontal line.

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